

NON-EXEMPT ✓ PARTIALLY EXEMPT EXEMPT**Mendez, Gayla**

Subject: EPA/DENR mtg - Duke Coal - EPA location 15G
Location: EX 5 DPP
Start: Wed 10/1/2014 2:00 PM
End: Wed 10/1/2014 3:00 PM
Show Time As: Tentative
Recurrence: Weekly
Recurrence Pattern: every 2 week(s) on Wednesday from 2:00 PM to 3:00 PM
Meeting Status: Not yet responded
Organizer: Bouma, Stacey
Required Attendees: Hom, Michael; Ireland, Laurie; Hicks, Matt; Bush, William; Ghosh, Mita; Staples, Bridget; Presnell, Lacy; Evans, John; Poupart, Jeff; Zimmerman, Jay; Vinson, Toby; debra.watts@ncdenr.gov; Bennett, Bradley; Nuhfer, Mark; Schwartz, Paul
Optional Attendees: Diaz, Denisse; Smith, Danny; Olone, Dan; Zimmer, Andrea; Dromgoole, Ahmad; Randall, Mike; Davis, Tracy

Proposed Agenda (note – this call number has 6 lines; if there will be more than 6 locations for calling in then I will need to get another line-just let me know, thanks, Stacey)

1. Response received from Duke - next steps
2. Permit status/review - Riverbend
3. DENR process to notify facilities on need to apply for separate stormwater permit
- Any ltr or other written notification sent to Duke when applied for wastewater permit
4. Ltr from Duke concerning withdrawal ltr

Mendez, Gayla

Subject: EPA/DENR mtg - Duke Coal**Location:** Ex 5 DPP**Start:** Wed 9/17/2014 2:00 PM**End:** Wed 9/17/2014 3:00 PM**Show Time As:** Tentative**Recurrence:** Weekly**Recurrence Pattern:** every 2 week(s) on Wednesday from 2:00 PM to 3:00 PM**Meeting Status:** Not yet responded**Organizer:** Bouma, Stacey**Required Attendees:** Ireland, Laurie; Hom, Michael; Hicks, Matt; Bush, William; Ghosh, Mita; Staples, Bridget; Presnell, Lacy; Evans, John; Poupart, Jeff; Zimmerman, Jay; Vinson, Toby; debra.watts@ncdenr.gov; Bennett, Bradley**Optional Attendees:** Diaz, Denisse; Olone, Dan; Zimmer, Andrea; Dromgoole, Ahmad; Schwartz, Paul; Nuhfer, Mark; Smith, Danny; Randall, Mike**Agenda:**

1. EPA response to DENR decant ltr

EPA Response to
Decanting lett...



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 16 2014

Mr. Jeff Poupart
Chief, Permitting Section
Division of Water Quality
North Carolina Department of Environment
and Natural Resources
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

Subject: Letter Dated August 28, 2014 to Duke Energy Regarding Decanting of Wastewater

Dear Mr. Poupart:

This letter is to recommend that you withdraw the above-referenced letter (enclosed) and provide additional information about the potential effluent characteristics of the decanted wastewater. The U.S. Environmental Protection Agency is concerned that the August 28, 2014, letter will create uncertainty that could result in Duke Energy discharging wastewater with pollutants not authorized in a National Pollutant Discharge Elimination System (NPDES) permit.

The letter attempted to clarify for Duke Energy that it may proceed to "decant all the wastewater in the ash pond above the ash level" at each of 14 ash ponds under currently applicable NPDES permits. It prohibits Duke Energy from removing wastewater by dredging, trench excavation or other mechanical movement of the ash. The letter requests Duke to submit chemical characterization of the interstitial ash water and predicted volume of wastewater that would be generated by mechanical dewatering. The letter gives Duke no deadline by which to submit this information.

The extent to which the pond can be drawn down through "decanting," as opposed to mechanical dewatering, is not clear in the letter. Rather than clarifying the issue, the letter creates uncertainty as to whether or not Duke is, or is not, authorized to discharge through the decanting process almost all liquid in the ash ponds, including interstitial ash water. It is also not clear whether Duke Energy, through this letter, is now newly authorized to discharge additional pollutants or higher pollutant concentrations that may be present due to any changes in effluent quality while the ponds are drawn down to the ash level.

The letter indicates that the discharge of "supernatant" shall be monitored in accordance with the NPDES permit. However, the applicable permits only require monitoring for a limited number of pollutants once every six months. As a result, Duke Energy could draw the ponds down completely without taking a single sample to assess effluent quality, permit compliance, or water quality impact.

Based on the EPA's review of Duke Energy's initial applications and permit documents, it does not appear that they requested authorization to conduct large-scale "decanting" or drawdown processes. It does not appear that Duke Energy disclosed information or data about the effluent characteristics and average flows of the decanted wastewater as required by 40 Code of Federal Regulations (CFR)

122.21(g). Nor does it appear that the North Carolina Department of Environment and Natural Resources contemplated large-scale decanting when issuing each of the 14 Duke Energy permits.

The characterization of effluent quality and quantity in the permit applications appear to have been based on normal (gravity-based or passive) discharges of wastewater from the surface of the ponds after full settling has occurred. It is possible, however, that higher concentrations of pollutants may be present at deeper levels in the pond which will be discharged in the decanted wastewater. Further, the drawdown of wastewater may involve a much higher discharge rate than contemplated at the time the permits were issued. The letter also relates to 14 separate facilities, which have different receiving stream conditions, such as minimum flows and existing water quality which could affect a revised reasonable potential analysis.

There was no information in the letter showing that any analysis of potential changes to effluent quality or quantity has been undertaken, nor any evaluation of the impact that such changes might have on a revised reasonable potential analysis for the additional discharge. Should this information already be available, please submit it for our evaluation.

Without additional information, it is not possible to determine whether or not a formal permit modification would be necessary to authorize the discharge of changed effluent quality or volume that may occur during the decanting process at these 14 facilities. However, it is likely that at a minimum, significant additional monitoring (if not additional effluent limitations) during the decanting process would be warranted to ensure compliance with existing effluent limits and water quality standards.

Without submittal of additional information by Duke Energy and subsequent revised reasonable potential analyses by DENR, made available to the EPA and the general public, discharges of additional decanted wastewater and additional pollutants will not qualify for NPDES permit shield protections under Section 402(k) of the Clean Water Act.

The EPA therefore requests that DENR withdraw the letter and obtain additional data for each facility at which Duke Energy plans to decant or drawdown any and all additional wastewater to the ash level.

If you have not already done so, the EPA requests that you require Duke Energy to provide the following information to DENR for each of the 14 facilities referenced in the letter:

- data characterizing the effluent quality of the decanted wastewater to the ash level;
- anticipated weekly average and maximum daily wastewater flow rates during drawdown;
- pollutant concentrations in ash ponds at various depths between the base and surface of the ponds for all pollutants known or believed to be present in the discharge of decanted wastewater to the ash level;
- data showing background pollutant concentrations in receiving streams for all pollutants known or believed to be present in the discharge of the decanted wastewater;
- low (7Q10) stream flow in each receiving waterbody; and
- additional information about how it will be ensured that only decanted wastewater and not wastewater resulting from dredging the ash, excavating the trenches, or any other mechanical movement of the ash will be discharged.

DENR should use the additional information to conduct revised reasonable potential analyses for each of the 14 facilities to inform decisions regarding the need for a permit modification and the potential need for additional monitoring requirements and/or water quality based effluent limits.

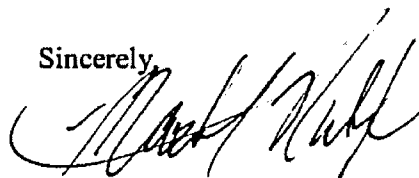
The EPA requests that you provide us with this data and information for our review, as well as revised reasonable potential analyses. This will enable us to appropriately determine together with DENR whether or not formal permit modifications will be required to authorize Duke Energy to discharge decanted wastewater from these 14 facilities.

The EPA notes that any permit modifications should include additional technology-based effluent limitations on a case-by-case basis based on best professional judgment as required section by § 402(a) of the Clean Water Act, 40 CFR § 122.44(a), § 123.25, and § 125.3. In particular any additional technology-based effluent limitations should address pollutants discharged from the ash ponds that are not included in effluent guidelines for the steam electric power generating industry in 40 CFR Part 423.

In subsequent discussions with representatives of DENR, it appears that one of the worthy goals of this letter was to expedite closure of some ash ponds by addressing Duke Energy's need to remove wastewater from the pond. We recommend that you consider alternative enforceable approaches, in addition to potential permit modifications, that will achieve this purpose while ensuring protection of water quality during the decanting process.

The EPA looks forward to working together with DENR to discuss our requests and recommendations to ensure that any discharges of wastewater from the decanting or dewatering process be appropriately authorized.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Nuhfer', written over a horizontal line.

Mark J. Nuhfer, Chief
Municipal and Industrial NPDES Section

Enclosure

cc: Mr. Mark McIntire
Duke Energy



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

August 28, 2014

CERTIFIED MAIL 7013 2630 0001 8998 1581
RETURN RECEIPT REQUESTED

Mark McIntire
Duke Energy
410 S. Wilmington Street
Raleigh, NC 27601

Subject: Duke Energy Notice of Operating Condition Clarification
Allen Steam Station NC0004979 Gaston County
Buck Steam Station NC0004774 Rowan County
Marshall Steam Station NC0004987 Catawba County
Lee Steam Electric Plant NC0003417 Wayne County
Weatherspoon Steam Electric Plant NC0005363 Robeson County
Mayo Steam Electric Power Plant NC0038377 Person County
Roxboro Steam Electric Power Plant NC0003425 Person County
Riverbend Steam Station NC0004961 Gaston County
Asheville Steam Station NC000396 Buncombe County
Belews Creek NC0024406 Stokes County
L.V. Sutton Electric Plant NC0001422 New Hanover County
Cape Fear Steam Electric NC0003433 Generating Plant Chatham County
Dan River Combined Cycle Plant NC0003468 Rockingham County
Cliffside Steam Station NC0005088 Gaston County

Dear Mr. McIntire:

This letter is to clarify operating conditions for NPDES Permits issued to the above listed facilities. The Permittee is authorized by the existing NPDES wastewater permits to decant all the wastewater in the ash pond above the ash level provided the supernatant is directed through the same discharge point and monitored in accordance with the NPDES permit requirements.

The Permittee is prohibited from removing wastewater by dredging the ash, excavating the trenches, or any other mechanical movement of the ash. Duke Energy shall submit the chemical characterization of the interstitial ash water from the ash basin and predicted volume of wastewater that will be generated by mechanical dewatering.

If you have any questions about this letter, please contact me at (919) 807-6309, or via e-mail at jeff.poupart@ncdenr.gov.

Sincerely,

Jeff Poupart
Water Quality Permitting Section Chief

cc: EPA Region IV, Mark Nuffer
Central Files
DWR Regional Offices

1611 Mail Service Center, Raleigh, North Carolina 27699-1611
Phone 919-707-9000 \ Internet www.ncwater.org

An Equal Opportunity / Affirmative Action Employer - Made in part by recycled paper